

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

UNITED STATES OF AMERICA :
 :
v. : CASE: 5:15-CR-0005-MTT-CHW
 :
JONATHAN VERNON :
 :

MOTION TO SUPPRESS SEARCH OF 211 PINE NEEDLE ROAD, APARTMENT A

Pursuant to FRCP 12(b)(3)(C) and 41(h), Defendant Jonathan Vernon, through counsel, files this Motion to Suppress evidence gathered in violation of the Fourth Amendment to the United States Constitution and FRCP 41. Specifically, the search of Mr. Vernon's house occurred outside the time frame specified on the warrant.

Factual Background

On March 26, 2011, an investigation was started into Vernon regarding child pornography. The Federal Bureau of Investigation in Dallas allegedly downloaded a number of files from an IP address. An administrative subpoena revealed that the IP address was registered to Mr. Vernon at 211 Pine Needle Road, Apartment A, Milledgeville, Georgia. The information was passed on to the local agent, Kimberly Granich, who continued the investigation.

2.

SA Granich verified that Mr. Vernon lived at the address. She also performed surveillance on the apartment and watched Mr. Vernon walk into the apartment.

3.

On June 21, 2011, SA Granich applied for a search warrant in the Middle District of Georgia. Magistrate Judge Charles Weigle issued a search warrant at 3:05 p.m. that day, filed as 5:11-MJ-06-10.

4.

The warrant has a statement authorizing a search in the daytime. In that sentence, there is a parenthetical reference with blanks for the magistrate judge to specify time. In this case, Judge Weigle specified that the search take place between 8:00 a.m. and 6:00 p.m.

5.

SA Granich executed the warrant on June 28, 2011 at 6:05 a.m., as stated in the search warrant return filed with the court in case 5:11-MJ-06-10.

Legal Argument

The search violated the Fourth Amendment and FRCP 41 because the search was performed outside the specified time in the warrant. Therefore, the evidence, including all images gathered as a result of the search, should be suppressed.

November 20, 2015.

s/Keith E. Fitzgerald
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CERTIFICATE OF SERVICE

I hereby certify that by my signature I have served a copy of this motion on all interested parties by filing it electronically with CM/ECF

November 20, 2015.

s/Keith E. Fitzgerald
KEITH E. FITZGERALD